

Docket No.: 0042697.00149US3
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Roy G. GORDON et al. Confirmation No.: 7410
Application No.: 10/534,687 Art Unit: 1621
Filed: May 12, 2005 Examiner: G. P. Nazario
Title: ATOMIC LAYER DEPOSITION USING METAL AMIDINATES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR
RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R.
§§ 1.702-1.705**

MADAM:

The Notice of Allowance mailed March 2, 2009 for the application referenced above recites a 436 day patent term adjustment. Applicants believe that the application is entitled to more than 436 days of term adjustment. Applicant hereby request reconsideration of the patent term adjustment as follows.

Applicants believe the total patent term adjustment under 37 C.F.R. §§ 1.702-1.704 should be the total of:

(1) 436 days under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1) for the Patent Office delay and adjusted to account Applicant delay.

(2) 157 days under 37 C.F.R. §§ 1.702(b) and 1.703(b) for the Patent Office delay in issuing the patent after January 31, 2009 (three years from the filing date) until the patent issued on July 7, 2009.

The periods (1) and (2) do not overlap. (37 C.F.R. § 1.703(f). See *Wyeth v. Dudas*, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Thus, the total adjustment based on (1) and (2) above would be 593 days.

The additional days of patent term adjustment are requested under 37 C.F.R. §§ 1.702(b) and 1.703(b) for the following reason.

37 C.F.R. 1.702(b) states:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a)

37 C.F.R. § 1.703 states in pertinent part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) ... and ending on the date a patent was issued, but not including the sum of ... [t]he number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued . . .

The instant application was filed under on May 12, 2005. Applicants completed all 35 U.S.C. §371 requirements on January 31, 2006. The relevant period of delay in issuing the patent began on January 31, 2009 and the patent issued on July 7, 2009. Accordingly, our calculations show that the application should receive an additional patent term adjustment for a total of 157 days.

The instant application was never involved in an interference or maintained in a sealed condition under 35 U.S.C. § 181. Applicants did not file a notice of appeal to the Board of Patent Appeals and Interferences under 35 U.S.C. §134 and 37 C.F.R. §41.31 for the instant application. Applicants believe the instant application is due 593 days of Patent Term Adjustment.

In accordance with 37 C.F.R. 1.18(e), please charge the \$200.00 fee to our Deposit Account No. 08-0219. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 08-0219.

Dated: September 7, 2009

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